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February 26, 2008

The Honorable John G. Koeltl  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 1030  
New York, New York 10007

*No adjournment is required. The hearing is solely an argument on the motions to dismiss. No witnesses should be produced at the hearing.*

Re: Marie C. Joseph v. Terence Cardinal Cooke Health Care Center, 1199 SEIU New York's Health & Human Services Union and Nieva Bolinas, 07-CV-9325 (JGK)

Dear Judge Koeltl:

*2/26/08 4-5 D-5*

This firm represents Terence Cardinal Cooke Health Care Center ("TCC"), and Nieva Bolinas, two of the three defendants in the above referenced matter. We write to oppose plaintiff's request, just received this afternoon, for an adjournment of the oral argument on defendant's motion to dismiss the Complaint as untimely. The oral argument is currently scheduled before Your Honor for Thursday, February 28<sup>th</sup> at 2:30 p.m.

The oral argument concerns the two similar motions to dismiss the Complaint filed by TCC, and by co-defendant 1199 SEIU. Both motions assert that all of the counts of the Complaint are time-barred, and otherwise fail to state a claim upon which relief can be granted.

Since the dismissal motions assume the truth of all the allegations in the Complaint, and since the court merely requested oral argument on these motions, there is obviously no reason for "witnesses" of any kind, as plaintiff's counsel now requests. Similarly, there is no reason for an adjournment to allow plaintiff's counsel to "prepare" any such witnesses. This is merely a simple 12(b)(6) motion to dismiss. No factual issues are in dispute.

For these reasons we respectfully request that the oral argument proceed as scheduled, and that plaintiff's request for adjournment to prepare "witnesses" be denied.

Very truly yours,

BOND, SCHONECK & KING, PLLC

*David E. Prager*  
David E. Prager

DEP/vlt

cc: Ralph Accoo, Esq. (by FedEx; no fax or email available)  
David Slutsky, Esq. (by fax)